

STAFF REPORT

AGENDA ITEM: Legislation Update

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DATE: October 14, 2011

CALIFORNIA LEGISLATION: CALIFORNIA STATE PARKS

BACKGROUND

California's legislative session ended on September 9, 2011. Barring a special session called by the Governor or by legislative leaders, the Assembly and Senate will return January 4, 2012.

Bills still in committee are unlikely to be acted on until the Legislature returns in January. During the last 12 days of session, the normal 12 day requirement for the Governor to act on bills is extended to 30 days. Thus, the Governor has until Monday, October 10 to act on any bill passed after August 28. The Governor may sign, veto, item veto, or perform no action on bills presented to him. If the Governor does not act on a bill within the constitutionally mandated timeframe, the bill becomes law without signature. Regular bills that do not include an "urgency clause" take effect on January 1, 2012.

DISCUSSION

As of October 3, 2011, the following bills are currently pending and/or pending approval by the Governor.

AB 42: State Parks (Huffman-D)

Status: 9/14/2011 – This bill was approved by both houses. The bill was enrolled and presented to the Governor on 9/14/2011.

Summary: As amended, this bill would authorize the Department of Parks and Recreation to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units of the state park system, as identified by the director, with a qualified nonprofit organization that exists to provide visitor services in state parks, facilitate public access to park resources, improve park facilities, or provide interpretive and educational services. This bill would require the operating agreement to include a requirement that the nonprofit organization annually submit a report to the Department. The bill would also require the nonprofit organization and the district superintendent for the Department to hold a joint public meeting for discussion of the report. The bill would repeal these provisions on January 1, 2019.

AB 628 Vehicles: Off-Highway Vehicle Recreation: County of Inyo (Conway-R)

Status: 9/20/2011 – This bill was approved by both houses. The bill was enrolled and presented to the Governor on 9/20/2011.

Summary: Existing law authorizes an off-highway motor vehicle that has been issued a green or red identification sticker to be operated or driven upon a highway under certain circumstances. Existing law prohibits a highway from being designated for this combined use for a distance of more than 3 miles.

This bill would, until January 1, 2017, authorize the County of Inyo to establish a pilot project that would increase the three mile limit for specified combined-use highway segments to a maximum of ten miles so that the highways can be used to link unincorporated county roads to existing off-highway motor vehicle trails and trailheads on federal Bureau of Land Management or United States Forest Service lands. These combined use highways would link off-highway motor vehicle recreational use areas with necessary service and lodging facilities to provide a unified linkage of trail systems for off-highway motor vehicles. All other requirements in existing law would remain. The bill would authorize the pilot project to include the use of a state highway or the crossing of a highway, subject to the approval of the Department of Transportation (DOT), and would require the County of Inyo to indemnify the state, as specified, and limit off-highway motor vehicles to 35 mph on these combined use highways.

The bill would require the County of Inyo, in consultation with the Department of the California Highway Patrol, the DOT, and the Department of Parks and Recreation, not later than January 1, 2016, to prepare and submit to the Legislature a report evaluating the effectiveness of the pilot project.

SB 356: State Parks: Local Operating Agreements (Blakeslee-R)

Status: 9/16/2011 - This bill was approved by both houses. The bill was enrolled and presented to the Governor on 9/16/2011.

Summary: As amended, this bill would require the Department of Parks and Recreation, if it proposes to fully close a unit of the state park system, with no planned public access, to notify the county or city in which the unit is located. The bill would require the Department to enter into negotiations with a county or city that notifies the Department of its intention to take over the operation and maintenance of a unit of the state park system in response to the Department's notice.

The bill would also require an agreement entered into to include certain provisions, including a provision that would require the length of the term of the agreement to be not less than one year and not longer than five years, with an option to renew upon the conclusion of the agreement.

SB 386: State Parks: Proposed Closures: Public Notice (Harman-R)

Status: 9/21/2011- Enrolled and presented to the Governor on 9/9/2011. The bill was vetoed by the Governor on 9/20/2011. This bill is now in the Senate. Consideration of the Governor's veto is pending.

Summary: As amended this bill would require the Department of Parks and Recreation to post on its Internet web site, at least 30 days prior to the date the Department plans to close a unit of the state park system to public access, specified information about the proposed park closure, including information about how to contact the Department in writing if an individual or other party is interested in entering into negotiations with the Department for a contract or agreement to lease, operate, maintain, or provide concessions at a unit of the state park system that is proposed to be closed. The bill would also require the Department to respond in writing to any inquiry received in connection with the information provided pursuant to those provisions. This bill contains other related provisions. This bill would declare that it is to take effect immediately as an urgency statute.

CALIFORNIA LEGISLATION: RENEWABLE ENERGY DEVELOPMENT

A number of renewable energy bills are being considered that could have a significant impact on access to public lands, particularly in the Southern California desert region. Many, of these lands currently support a diverse range of outdoor recreation activities, including non-motorized and motorized uses. Visitors include OHV recreationists, campers, hikers, gem and mineral collectors, photographers, wildlife viewers, and many others.

The following bills are currently pending or were recently approved by the Governor.

ABX1 13: Energy: renewable resources: endangered species: environmental impact reports (Pérez-D)

Status: 8/29/2011 – Approved by the Governor. Chaptered by Secretary of State.

Summary: ABX1 13 expands existing siting and permitting provisions for renewable energy projects enacted to facilitate permitting of solar energy projects in a specified desert region, to include a broader range of renewable energy projects in the desert and, for specified provisions, other regions of the state. The bill establishes new provisions to govern review of renewable energy projects under the California Environmental Quality Act (CEQA) and to support planning and permitting of renewable energy projects in the San Joaquin Valley. The bill directs the Department of Fish and Game to develop a Natural Communities Conservation Plan for renewable energy in the San Joaquin Valley and requires the California Energy Commission to provide grants to local governments for renewable energy planning efforts.

AB 982: Energy: Land exchange for renewable energy-related projects (Skinner-D)

Status: 9/16/2011 - This bill was approved by both houses. The bill was enrolled and presented to the Governor on 9/16/2011.

Summary: AB 982 requires the State Lands Commission (SLC) to enter into a memorandum of agreement (MOA) by April 1, 2012, with the United States Secretary of the Interior to facilitate land exchanges that consolidate state "school lands" in the California desert into contiguous holdings that are suitable for large-scale renewable energy-related projects. The bill requires SLC to submit a land exchange proposal within 240 days of the execution of the MOA.

SB 618: Local Government: Solar Use Easement (Wolk-D)

Status: 9/16/2011 – This bill was approved by both houses. The bill was enrolled and presented to the Governor on 9/16/2011.

Summary: This bill would allow local governments and landowners to mutually rescind a Williamson Act contract on marginally productive or physically impaired land and simultaneously entered into a solar-use easement. The Williamson Act provides landowners with lower property tax assessments in return for a ten-year commitment to use land for only agricultural or open use purposes. The solar-use easement would require that the land be used for solar photovoltaic facilities under similar terms of a Williamson Act contract. The bill would also require any lead or responsible agency to expedite its review of permits for solar photovoltaic facilities that are located on marginally productive, physically impaired, or disturbed land, as defined in the bill.

FEDERAL LEGISLATION UPDATE

BACKGROUND

The first session of the 112th United States Congress convened on January 3, 2011, and will end on January 3, 2013. A Congress lasts for two years, commencing in January of the year following the biennial election of Members. The Constitution mandates that Congress convene at least once a year. Each Congress usually has two sessions, since members of the House of Representatives serve two-year terms.

As part of the legislative process, Congress considers thousands of bills each session, but only a small percentage of the bills will make it to the President's desk for final approval or veto. Bills traverse a maze of committees and subcommittees, debates, and amendments in both chambers of Congress. In a typical session of Congress, over 10,000 bills are introduced for consideration, but only about 2 percent will make it through the legislative process.

DISCUSSION

The following bills are currently pending or were recently signed by the President.

H.R. 242: To clarify the implementation and enforcement of Subpart B of the Travel Management Rule relating to the designation of roads, trails, and areas for motor vehicular use, in administrative units of the National Forest System in California, and for other purposes (Herger, R-CA).

Status: 1/26/2011 – Referred to the House Committee on Natural Resources on 1/7/2011. Referred to the Subcommittee on National Parks, Forests, and Public Lands on 1/26/2011.

Summary: The purposes of this bill is to clarify the implementation and enforcement of Subpart B of the Travel Management Rule (36 C.F.R. 212), relating to the designation of roads, trails, and areas for motor vehicle use, in administrative units of the National Forest System in California, and for other purposes.

H.R. 848: Requires the U.S. Forest Service to accommodate, to the extent consistent with the management objectives and limitations applicable to the National Forest System lands at issue, individuals with mobility disabilities who need to use a power-driven mobility device for reasonable access to such lands (Alexander, R-LA).

Status: 3/1/2011 - Referred to the Committee on Agriculture, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. The bill was then referred to the Subcommittee on National

Parks, Forests, and Public lands on 3/3/2011 and referred to the Subcommittee on Conservation, Energy, and Forestry on 3/9/2011.

Summary: Directs the Secretary of Agriculture (USDA), through the Chief of the Forest Service, to require Forest Service personnel, in the implementation of off-road vehicle management under the Forest Service Travel Management Rule, to endeavor to accommodate individuals with mobility disabilities who would need to use a power-driven mobility device for access to such lands.

**H.R. 1581/ S. 1087: Wilderness and Roadless Area Release Act of 2011
(McCarthy, R-CA) / (Barrasso, R-WY)**

H.R. 1581: Status: 7/26/2011 – Referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. Referred to the House Natural Resources on 4/15/2011. Referred to the Subcommittee on National Parks, Forests, and Public Lands on 4/22/2011. Subcommittee Hearings held on July 26, 2011. Referred to the House Agriculture on 4/15/2011. Referred to the Subcommittee on Conservation, Energy, and Forestry on 5/11/2011. [There have been no further updates since the August 6, 2011 Commission meeting.](#)

S. 1087: Status: 5/26/2011 - This bill was read twice and referred to the Committee on Energy and Natural Resources

Summary: This bill would release all Wilderness Study Areas and Inventoried Roadless Areas, which have been recommended as not suitable for wilderness by the Bureau of Land Management or the U.S. Forest Service, and direct that they be managed for multiple use. This legislation would terminate Secretarial Order 3310 and prohibit the Interior Secretary from issuing a national regulation or directive that directs how released lands will be managed. This bill would release roadless areas within the National Forest System, which have been recommended as not suitable for a wilderness designation by the U.S. Forest Service. This legislation would also terminate the 2001 Roadless Area Conservation Rule and the 2005 State Petition Rule, and prohibit the Agriculture Secretary from issuing a national regulation or directive that directs how released roadless areas will be managed.

**H.R. 2584: Department of the Interior, Environment, and Related Agencies
Appropriations Act, 2012 (Simpson, R-ID)**

Status: 7/19/2011 - Reported out of House Appropriations Committee. Work on the bill stalled during consideration of more than 185 separate amendments when the House broke for August recess.

Summary: This bill makes appropriations for the Department of the Interior, Environment, and related agencies for the fiscal year ending September 30, 2012, and for other purposes. The bill includes many amendments to de-fund Administration, environmental, and public land priorities. Amendments include provisions that would not allow relevant agencies to expend funds to implement: 1) BLM's "Wild Lands" policy; 2) continuation of the USFS's Travel Management Rule in California; and 3) the EPA's greenhouse gas rules.

H.R. 2715: To provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, and for other purposes (Bono, R-CA).

Status: 8/12/2011 – This bill was signed by the President on 8/12/2011 and became public law No: 112-28.

Summary: Amends the Consumer Product Safety Improvement Act of 2008 to apply the limit on lead content in children's products only to products manufactured after the effective date of the limit.

Requires the Consumer Product Safety Commission (CPSC) to grant an exception to such lead limit for a specific product, class of product, material, or component part if CPSC determines that: (1) it is not practicable or technologically feasible to manufacture the item in accordance with the lead limit by removing the excessive lead or by making the lead inaccessible; (2) the item is not likely to be placed in the mouth or ingested by a child; and (3) the exception will have no measurable adverse effect on public health or safety (i.e., the exception will result in no measurable increase in blood lead levels of a child). Sets forth procedures for granting these exceptions.

Exempts off-highway vehicles from the limit on lead content in children's products. Exempts bicycles from such lead limit and applies an alternate limit for the metal component part of the products. Exempts used children's products from the lead limit, except for children's metal jewelry, any product for which the donating party or seller has actual knowledge that the product is in violation of the lead limits, or any product or category as determined by CPSC.

FEDERAL LEGISLATION: WILDERNESS DESIGNATIONS

Congress established the wilderness designation for public lands in the Wilderness Act of 1964. When Congress designates each wilderness area, it includes a very specific boundary line in statutory law. Once a wilderness area has been added to the System, its protection and boundary can only be altered by another act of Congress. Wilderness designations limit uses to those consistent with the Wilderness Act mandate that each wilderness area be administered to preserve the "wilderness character of the area." Additionally, the Act outlines that within designated wilderness areas, there shall be no temporary (or permanent) road, no use of motor vehicles, motorized equipment or other form of mechanized transport, and no structure or installation within any such area.

The following bill related to wilderness designations is pending.

S 138: California Desert Protection Act of 2011 (Feinstein D-CA)

Status: 1/25/2011 –Referred to the Senate Committee. Read twice and referred to the Committee on Energy and Natural Resources. [No changes have occurred as of the August 6 Commission meeting.](#)

Summary: Amends the California Desert Protection Act of 1994 to, among other things: (1) establish or designate national monuments, wilderness areas, a special management area, and off-highway vehicle recreation areas; (2) release specified wilderness study areas; (3) adjust national park and preserve boundaries; and (4) specify land withdrawals, exchanges, and acquisitions. Also amends the Wild and Scenic Rivers Act to designate specified segments of rivers and creeks as components of the National Wild and Scenic Rivers System.

FEDERAL LEGISLATION: NATIONAL MONUMENTS

The Antiquities Act of 1906 grants the President unilateral authority to designate areas of public lands as National Monuments. Presidential establishment of national monuments under the Antiquities Act of 1906 has protected valuable sites, but also has been contentious. The establishment of national monuments by Presidents has raised concern including the authority of the President to create large monuments; impact on development within monuments and access to monuments for recreation; and lack of requirement for environmental studies and public input in the monument designation process.

The following bills related to National Monuments are currently pending.

H.R. 302 / S. 122: Preserve Land Freedom For Americans Act of 2011 (Foxx, R-NC) / (Vitter, R-LA)

H.R. 302: Status: 9/13/2011 - House Committee on Natural Resources: Referred to the Subcommittee on National Parks, Forests, and Public Lands. Subcommittee hearings were held on 9/13/2011.

S. 122: Status: 1/25/2011 - Read twice and referred to the Committee on Energy and Natural Resources.

Summary: Requires the President, prior to designating a national monument, to obtain a state's approval for a monument located on federal land within the state. Bars the Secretary of the Interior from implementing any restrictions on the public use of a national monument until the expiration of an appropriate review period providing for public input and state approval.

H.R. 758 / S. 407: National Monument Designation Transparency and Accountability Act (Nunes, R-CA)

Status: 9/13/2011 – Referred to the House Committee on Natural Resources on 2/17/2011. Referred to the Subcommittee on National Parks, Forests, and Public Lands on 2/22/2011. Subcommittee hearings were held 9/13/2011.

Summary: Requires land reserved as part of a national monument to be confined to the smallest area essential to ensure proper care and management. Bars President from issuing a proclamation to designate a national monument before end of a 30-day period beginning when language of the proposed proclamation is provided by President to Congress, Governor of each state, and specified local and tribal government officials having jurisdiction over land within proposed monument. Requires at least one public hearing and notice and comment period after issuance of a proclamation to designate a national monument. Requires President to report to Congress on any hearings held, any written comments received, and impact of such designation on communities within monument boundaries, the nation's energy security, and interests, rights, and uses associated with the land within the monument. Makes a Monument proclamation ineffective 2 years following its issuance, unless approved by an Act of Congress.

S. 407: National Monument Designation Transparency and Accountability Act of 2011 (Crapo, R-ID)

Status: 2/17/2011 - Read twice and referred to the Committee on Energy and Natural Resources.

Summary: Amends the Antiquities Act of 1906 to require land reserved as part of a national monument to be confined to the smallest area necessary to ensure the proper care and management of the objects to be protected by the monument. Sets forth requirements for the designation of national monuments under the Act.

H.R. 817: To amend the Antiquities Act of 1906 to place additional requirements on the establishment of national monuments under that Act, and for other purposes (Herger, R-CA)

Status: 9/13/2011 – Referred to the House Committee on Natural Resources. Subcommittee on National Parks, Forests, and Public Lands heard on 9/13/2011.

Summary: Amends the Antiquities Act of 1906 to require, in addition to a presidential declaration, congressional approval prior to the establishment of a national monument. Prohibits the further extension or establishment of national monuments in California except by express authorization of Congress.

COMMISSION ACTION: For informational purposes only. No action is required.